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DIVORCE MADE EASY.

BY PROF. SAMUEL J. BRUN.

IN THE NORTH AMERICAN REVIEW for December, 1892, M. Naquet, a member of the French Chamber of Deputies and father of the French divorce law of 1884, has an article on divorce in which he not only defends the bill of 1884 but regrets that his countrymen are not ripe enough for more liberal legislation on that subject. His words leave no room for doubt in the mind of the reader as to the breadth of the writer's view on that particular topic. "My convictions on this subject," he says, "are so well established that, if I did not fear the reaction to which popular ignorance might give birth, I would not hesitate, if in my power to do so, to remove every obstacle in the way of divorce." And with M. Bertillon he takes the ground—to use the very words of Colonel Wright, of the Bureau of Labor—"that legislation of a kind which extends the causes for or facilitates the procedure in divorce cases has no marked influence upon the increase of the number of decrees granted." If, for instance, the only ground for seeking divorce was the breaking on the part of one of the contracting parties of the seventh commandment, the number of decrees granted would average the same as if divorce could be sought and obtained on the grounds of desertion, failure to provide, cruel treatment, habitual drunkenness, or for any of the grounds on which the courts may deem it sufficient to render their decrees severing the bonds of matrimony. Mr. Wright, in his chapter on the influence of legislation, in his report on marriages and divorce, expresses no definite belief on the subject, although his studies along this line are extensive.

Surprised, however, at the sudden increase of divorces in France since the bill of 1884 became a law, M. Naquet hints that there will soon be a decrease in the numbers of applications for divorce. Switzerland is named by him as an instance of a country where, after the first few years, there was a marked decrease in the number of applications and decrees granted. The fact is, however, that Switzerland has a rather loose law of divorce—certainly more liberal than the French law—its courts being empow-

ered to grant their decrees if the marriage relation seems to be greatly strained. In Switzerland the ratio of divorced couples to the thousand marriages was, for the period of 1877-81, 48.06 per cent., and for the period of 1882-86, 45.09 per cent., which is certainly not such a falling off as to warrant the assumption that decrees will decrease in France.

I think history proves that applications for divorce increase as the law becomes more and more liberal; and in this connection it may be interesting to go back to French legislation on that subject in 1792. In that year France made the experiment of changing the conception of marriage by substituting a covenant practically at will for a covenant for life. By that law, as then enacted, divorces were granted in France for nine causes, and one of the grounds was allegation of incompatibility of temper or character by either of the spouses. This ground on which divorce proceedings could be based worked like a charm; so that, according to M. Glasson, during the twenty-seven months following the promulgation of the law of 1792, 6,000 divorces in Paris alone were granted, and for the year 1797 the divorces actually outnumbered the marriages.

The historian Duval, in his *Souvenirs Thermidoriens*, has a passage which graphically depicts the state of society with respect to marriage and divorce. It is found on pages 60-61 of Volume I., which I condense. He says:

“Couples divorced for a ‘yes,’ for a ‘no;’ they divorced under the least provocation; they divorced without provocation, without any more ado than they would have made to go and gather lilacs in the meadows of Saint Gervais or to eat cherries at Montmorency. . . . There was an especial article in the law which opened wide the door to libertine husbands and debauched wives. I refer to the one which allowed divorce for incompatibility of temper. The husband might have a mistress and be tired of his wife. The wife might have a lover and would like nothing better than to get rid of her husband. They mutually informed each other of their respective affairs, left together for the city hall, informed the mayor they could no longer bear each other, and on that day or the following day the divorce was granted for incompatibility as to temper. And the children, what became of them? What did it matter? The spouses were freed the one from the other; the most important thing was done.

“And it was not a rare thing, on account of the ease with which divorces could be obtained, to find couples who had been divorced five or six times in as many months. Sometimes very ludicrous things happened. Once two couples were acting like La Fontaine’s *Troqueurs*, which means that they were making an exchange amongst themselves—trading husbands and wives—and the quartette were so well agreed that the double wedding repast was had at common expense at L’Arc-en-ciel Boulevard de l’Hôpital.

"A saddler living in Paris after divorcing his wife had become a municipal officer. One day while on duty for the performance of marriage ceremonies at the city hall, his former wife entered to be married again. That seemed to be somewhat strange to him. But what was his surprise when he recognized in the person of the groom L'Abbe Hervier, a priest of Saint Eustache, who had formerly given them the nuptial blessing. He, however, made them husband and wife without departing in any way from his municipal seriousness."

French legislators became alarmed at the steady increase in the number of divorces, and in 1798 an amendatory act was passed restricting somewhat the provisions of the law of 1792, and enacting that every ten years all teachers of public and private schools were to take their pupils to the public square and then and there to make proclamation of the divorced couples during the previous decade, thereby trying to check the evil by giving it the stigma of public disgrace. M. Naquet, and those who think as he does on this subject, may contend that these were abnormal times. Let us then study the same question in the United States through a period covering the years 1866-86, in time of peace, in a country where temples are not erected by the State to the Goddess Reason, where schools and churches abound, and amongst a people which claims to be religious.

The laws of the different States of the Union do not countenance such a clause on which to pin a divorce as "incompatibility of temper;" but with the exception of South Carolina, which has no divorce law, and New York, which has only one ground for the granting of divorce, all the States of the Union grant divorces on the ground of cruel and inhuman treatment, in addition to the usual statutory grounds. Now, during that period, while the population has increased about 60 per cent. divorces have increased 157 per cent. In 1867 the total reach was 9,937 divorces, and in the year 1886 it had risen to 25,535, which is an increase of nearly 157 per cent. in twenty years, and the grand total of divorces granted is 328,716.

To be sure, divorces were not granted for a "yes" or a "no," or for incompatibility of temper, but they were granted under that much abused clause of "inhuman and cruel treatment." And it is quite interesting to see what constitutes inhuman and cruel treatment. I take examples at random from the Report of the Commissioner of Labor for 1889. In one case a court grants a divorce to the wife because the defendant, the husband, does not

wash himself. In another case, the defendant, the husband, has accused the plaintiff's sister of stealing. In one case a divorce is granted to plaintiff, the wife, because her old husband, to whom she had been married twenty-seven years, says to her : " You are old and worn-out ; I do not want you any more." In another case, whilst the plaintiff, the wife, was sick in bed, the defendant said to her that he meant to commit suicide and then and there drank a bottle of paregoric, which was a means of great mental worriment and anxiety to the plaintiff, and the court severed the bonds of matrimony.

A very unique case is that where plaintiff, who is subject to sick headaches which grow worse when she smells tobacco, is granted a divorce because her husband smokes. In another case the plaintiff is granted a divorce from her husband because he insists on quoting to her passages of the Scriptures, and reminding her in the language of the Apostle Paul that she is to be obedient to her husband. But perhaps the oddest is the case where defendant writes to plaintiff as follows : " There is a woman here whom I think I could love. If you love me, Mary, or if you have ever loved me, you will do me the kindness to sue for a divorce as soon as possible." And Mary, who loves him, or may have loved him, asks and of course obtains a divorce. In one case defendant writes to plaintiff that he is dead. She orders a mourning garb, but soon finds out that he is alive. Instead of rejoicing over her lost treasure, she asks and obtains a divorce.

Forty-five thousand seven hundred and thirty-one divorces were granted to wives against their husbands in twenty years for what is termed " extreme cruelty," and some samples have just been given. Husbands, however, are not so lucky, for they got only 6,122 decrees in the same period, which is certainly an outrage, judging from the treatment they must receive at the hands of their spouses, if the following cases are fair samples : A poor husband appears in court and complains that the wife refuses to keep his clothing in repair and to sew on his buttons. He is corroborated by the testimony of one witness who says that he has seen plaintiff with only one button on his vest. The court grants the divorce. In another case the plaintiff receives a violent blow from his wife administered to him with her bustle ; and in still another case the wife pulls plaintiff out of bed by his whiskers.

Here is a case which came under the writer's observation. A

few months ago a Christian minister was called upon to unite in the holy bonds of matrimony a couple who were yet young in years but old veterans in hymeneal unions. A few years before they had been married, but the young husband, pinched for means, committed a forgery, was arrested, tried and sentenced to the penitentiary. His better half, who had married him for "better or for worse," hastened, of course, to get a divorce and to marry again. He served his time, discarded his prison garb, and being a free man contracted a new marriage. But the second spouse did not meet his expectations; he found his yoke unbearable; he asked for and obtained a divorce. Meanwhile his first wife was not idle. Her ideal was not realized in her second spouse, and she set the machinery of the law in motion and a few days made her free again, cured forever, as we might suppose, from "entangling alliances." Not so, however. Her first husband, knowing her free, came back, wooed and won her again, and they were married, receiving the congratulations of their friends.

That life is short is no longer true; for here is a couple yet under forty with two divorces apiece, and three marriages on the credit side of their lives. If they live to the allotted time of which the Psalmist speaks, they have ample time to contract half a dozen more experimental marriages. If this is not a travesty on holy wedlock, what is?

So we see that both in the stormy days of France, a hundred years ago and more, and in the halcyon days of American prosperity in the last half of the nineteenth century, loose divorce laws accelerate divorces instead of, as M. Naquet hopes, diminishing them.

It is also contended—and that is the great argument—that divorces encourage morality. If that be the case to-day in the United States, which have the loosest divorce laws, most loosely interpreted by the courts, of any nation in the world—where parties can marry and remarry at will, and exchange partners at pleasure—there ought to be a great falling off in the birth of illegitimate children. As a matter of fact, if we compare England with her strict divorce law, and France before the law of 1884 with the United States, we find that in England only 54 illegitimate children are born per thousand; in France 74 per thousand, and in the United States 70 per thousand, which is certainly not a very great showing in favor of the last named country, taking

everything into consideration—the ease with which marriages can be contracted and divorces obtained.

Now, I contend that legislation is responsible for the state of affairs as they now exist in the United States. For what is legislation?—the will of the majority? Yes and no. In some particular cases it is not. We know that many a law is enacted by the representatives of the people without their constituents ever clamoring for such a law, and France is no exception to that rule. Who does not know, for instance, that the bill of 1884 did not become a law until M. Naquet had urged its passage before two or three parliaments, and that it required all his persistence, his great skill, his persuasive eloquence, to bring the majority of the members of the Chamber of Deputies and the Senate to his view before the bill became a law? Who does not know, for instance, that many a law is passed in the different legislatures of the Union simply because one or two members are directly interested in it? It is an old story; a member is directly interested in legislation. He has had occasion to give what may be termed a complimentary vote to some of his fellow legislators. In their turn they are ready to pay back the compliment. The bill is harmless. It touches not the pocket of the taxpayer. They vote for it. It becomes a law. So long as it works no sudden or crying mischief it is suffered to remain on the statute books. And so with the different divorce laws; they are not at the start a result of popular clamor for their passage but of the accommodations legislators give to the parties interested in them.

It is said, for example, that in New York State, where the guilty party in a divorce proceeding could not under a former law remarry, a law was passed at the very instance of a member of the legislature—a divorcee directly interested—permitting the guilty party to remarry.

Once divorce laws are enacted, married couples take advantage of them who would never have thought or dreamed of separating and would have patched up their quarrels and differences if there had not been such an easy way out of the matrimonial bond. No man would have ever thought, unless the law favored a loose way out of wedlock, to write: “Mary, if you love me, or ever did love me, you will apply for a divorce, as there is another woman whom I could love.”

As the scope of the law is little by little enlarged, an increas-

ing number seek and obtain divorces, and after a while it becomes a perfectly respectable thing to contract what might be termed experimental marriages. In the West, especially, society receives back *divorcees*. The palaces of the well-to-do are open to them. Churches do not cast them out, and ministers welcome them at their communion tables. They may occupy positions of trust and honor, two or three divorces to their credit side notwithstanding.

And we are told that such sights have no influence on the growing generation of boys and girls. This is not true. Teach the rising generation by object-lessons at an age when impressions are deep and lasting, that men and women may, without losing caste, divorce at pleasure, and the notion of the sanctity of the family life is undermined. Let the newspapers dish up to the public, as they invariably do, all the details of divorce proceedings and joke about them, and the sanctity and morality of the family must necessarily be sapped.

It is not a hundred years since the guillotine numbered its victims on the Place de la Révolution in Paris. Lavallée, the historian, in his *Histoire de Paris*, speaking of the crimes committed in Liberty's name, says :

"The old régime by the number and facility of its criminal executions had given but too much to the people a taste for blood, for torture ; and the sight of the gibbet, of the wheel, of the scaffold daily given to the Parisians under the monarchy was not without its influence on the bloody scenes of the Revolution."

If blood called for more blood, why should not the daily sight and daily perusal of scandalous divorce proceedings change and demoralize our conception of marriage ?

The total number of children involved in twenty years of these divorce proceedings reaches 267,739, and in 141,810 cases the records do not show whether there was any issue of the couples before the courts. Over a quarter of a million children had their homes broken, and went to fill the ranks of those who believe in divorce as a remedy.

We are told that crimes are on the increase. The student of Sociology may, perhaps, find in the study of the relations of divorce to crime both the cause and the effect.

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